IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 21271 of 1994

Between:

M.S. Khan S/o Mohd. Hassan Khan, R/o 1-7-571/4/A,

Jamisthanpur, Musheerabad, Hyderabad-48

..... PETITIONER

AND

1.The labour Court-I, Hyderabad rep. by Presiding Officer
2.The Managing Director M/s. Saswad Goods Carriers, Plot No.42, Near Garware Nylon Factory, Kuwad, Pimpri, Poona-18
3.The Manager M/s. Saswad Transport Company, H.No.15-7-279/10, Near Santhoshi Mata Temple, Mushim Jung Bridge, Begum Bazar, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, particularly one in the nature of writ of Certiorari or any other appropriate writ, and after calling for the records from the 1st Respondent in M.P.No.411 of 1993, quash the order dated 15-9-1994 in M.P.No.411 of 1993, in so far as it relates to denial of relied excepting the retrenchment compensation as illegal and arbitrary and consequently direct the Respondents No.2 & 3 to pay the Petitioner notice pay, gratuity, wages for unavalid leave, difference of minimum wages, bonus and over-time wages as claimed in M.P.No.411 of 1993 on the file of the 1st Respondent with interest;

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondent No.1: G.P.FOR LABOUR.

Counsel for the Respondents 2 & 3: MR.RAJA REDDY KONETI

The Court made the following:

ORAL ORDER:

Heard both sides.

2. This writ petition is filed challenging the order of the Labour Court-I, Andhra Pradesh, Hyderabad in denying the benefits claimed by the petitioner under Section 33 (C) (2) of the Industrial Disputes Act (for short “the Act”).

3. The petitioner is the workman, the first respondent is the tribunal and the respondents 2 and 3 are the management.

4. For the sake of convenience, the petitioner, the first respondent and the respondents will be referred to as “the workman, the tribunal and the management” respectively.

5. The workman filed an application under Section 33 (C) (2) of the Act seeking certain amounts under different headings viz., Notice Pay, Retrenchment Compensation, Difference of Gratuity, unavailed Leave Wages, difference of Minimum Wages, Bonus and Overtime Wages.

6. No doubt, insofar as the retrenchment compensation is concerned, it is a statutory obligation on the part of the management to pay the same at the time of retrenchment. Therefore, the workman

is entitled to the retrenchment compensation and the tribunal has rightly granted the same to the workman.

7. Insofar as the payment of Gratuity is concerned, it is well established law that one has to make an application before the competent authority under the Payment of Gratuity Act. Therefore, the plea of the workman in this regard cannot be accepted and the same was rightly rejected by the tribunal.

8. Finally, insofar as the payment of Bonus is concerned, there is a categorical admission by the respondents that the workman was entitled to a sum of Rs.5,300/- towards bonus and, in fact, the tribunal also recorded a finding in that regard stating that the workman is entitled for a sum of Rs.5,300/- towards bonus, in spite of which no relief has been granted to the workman.

9. Obviously, this is a mistake committed, perhaps, by the tribunal having found that the workman was entitled for statutory bonus, which was admittedly to be paid to the workman, inadvertently no relief was granted.

10. The only relief that can be granted to the workman is the bonus of a sum of Rs.5,300/-. Only to that extent, the relief ought to have been granted to the workman, which also unfortunately was denied by the tribunal.

11. For the foregoing reasons, the respondents are directed to pay a sum of Rs.5,300/- (Rupees Five Thousand Three Hundred Only) towards bonus to the workman, within four months from the date of receipt of a copy of this order.

12. In the result, the writ petition is allowed only to the extent indicated above and the impugned order of the tribunal is modified insofar as the relief of bonus is concerned. However, there shall be no order as to costs.

29TH JULY 2004 D.S.R.VARMA, J

KRK

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice on this Thursday, the Twenty Nineth Day of July, Two Thousand Four.

To:

1.The labour Court-I, Hyderabad represented by its Presiding Officer.
2.The Managing Director M/s. Saswad Goods Carriers, Plot No.42,
Near Garware Nylon Factory, Kuwad, Pimpri, Poona-18.
3.The Manager M/s. Saswad Transport Company, H.No.15-7-279/10, Near Santhoshi Mata Temple, Mushim Jung Bridge, Begum Bazar, Hyderabad.

4.Two CD copies.

5.One spare.